

## **CHAPTER 27-09.1**

### **UNIFORM JURY SELECTION AND SERVICE ACT**

**27-09.1-01. Legislative intent.** The legislative assembly of the state of North Dakota hereby declares that it is the policy of this state that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service in this state and an obligation to serve as jurors when summoned for that purpose.

**27-09.1-02. Discrimination prohibited.** A citizen may not be excluded from jury service in this state on account of race, color, religion, sex, national origin, physical disability, or economic status.

**27-09.1-03. Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Clerk" and "clerk of court" include any deputy clerk.
2. "Court" means the district court of this state, and includes, when the context requires, any judge of the court.
3. "Lists of actual voters" means the official records of persons actually voting in the most recent general election.
4. "Master list" means the list of actual voters for the county which shall be supplemented with names from other sources prescribed pursuant to this chapter (section 27-09.1-05) in order to foster the policy and protect the rights secured by this chapter (sections 27-09.1-01 and 27-09.1-02).

**27-09.1-04. Jury commission.** Repealed by S.L. 1991, ch. 332, § 9.

**27-09.1-05. Master list.**

1. The clerk for each county shall compile and maintain a master list consisting of all lists of actual voters for the county supplemented with names from other lists of persons resident therein, such as lists of utility customers, property taxpayers, motor vehicle registrations, and driver's licenses, which the supreme court of this state from time to time designates. In compiling the master list, the clerk shall avoid duplication of names.
2. Whoever has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection 1 by the supreme court as supplementary sources of names, shall make the list available to the clerk for inspection, reproduction, and copying at all reasonable times.
3. The master list shall be open to the public for examination.

**27-09.1-05.1. Selection of jurors from judicial district - Impact of natural disaster - Grounds and method for selection.** The court, upon its own motion or in response to a motion by a party, may direct that prospective jurors be selected from one or more counties in the judicial district in which the court is located if the court determines that the number of prospective jurors within the county of venue is insufficient to obtain an adequate jury pool. Following notification by the court, the clerk of court of any county in the judicial district shall submit a specified number of names, with mailing addresses, of the prospective, qualified jurors to the clerk of court of the county of venue. If a natural disaster impairs the selection of a sufficient number of prospective jurors in any county, the supreme court, by emergency order, may authorize the court in the affected county to obtain additional names and mailing addresses of prospective, qualified jurors from the clerk of court of an adjoining county or from the clerk of

court of another county in the judicial district if a sufficient number of names and addresses is not available from the adjoining county.

**27-09.1-06. Master jury wheel.** Repealed by S.L. 1991, ch. 332, § 9.

**27-09.1-07. Juror qualification form.**

1. From time to time and in a manner prescribed by the court, the clerk shall mail to the prospective juror a qualification form accompanied by instructions to fill out and return the form by mail to the clerk within ten days after its receipt. The juror qualification form must be approved by the state court administrator as to matters of form and must elicit the name, address of residence, and age of the prospective juror and whether the prospective juror:
  - a. Is a citizen of the United States and a resident of the county;
  - b. Is able with reasonable accommodation to communicate and understand the English language;
  - c. Has any physical or mental disability that may require reasonable accommodation to render satisfactory jury service; and
  - d. Has lost the right to vote because of imprisonment resulting from conviction of a felony (section 27-09.1-08).

The juror qualification form must contain the prospective juror's declaration that the responses are true to the best of the prospective juror's knowledge and the prospective juror's acknowledgment that a willful misrepresentation of a material fact may be punished by a fine of not more than one thousand dollars or imprisonment in the county jail for not more than thirty days, or both. Notarization of the juror qualification form is not required. If the prospective juror is unable to fill out the form, another person may do it for the prospective juror and shall indicate that fact and the reason therefor. If it appears there is an omission, ambiguity, or error in a returned form, the clerk shall again send the form with instructions to the prospective juror to make the necessary addition, clarification, or correction and to return the form to the clerk within ten days after its second receipt.

2. Any prospective juror who fails to return a completed juror qualification form as instructed shall be directed by the clerk to appear forthwith before the clerk to fill out the juror qualification form. At the time of the prospective juror's appearance for jury service, or at the time of any interview before the court or clerk, the prospective juror may be required to fill out another juror qualification form in the presence of the court or clerk, at which time the prospective juror may be questioned, but only with regard to responses to questions contained on the form and grounds for excuse or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.
3. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a class B misdemeanor.

**27-09.1-08. Disqualification from jury service.**

1. The court, upon request of the clerk of court or a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror is disqualified for jury service. The clerk shall enter this determination in the space provided on the juror qualification form and as otherwise directed by the state court administrator.

2. A prospective juror is disqualified to serve on a jury if the prospective juror:
  - a. Is not a citizen of the United States and a resident of the state and county;
  - b. Is not at least eighteen years old;
  - c. Is unable with reasonable accommodation to communicate and understand the English language;
  - d. Is incapable, by reason of a physical or mental disability and with reasonable accommodation, of rendering satisfactory jury service, but a person claiming this disqualification may be required to submit a physician's certificate as to the disability and the certifying physician is subject to inquiry by the court at its discretion; or
  - e. Has lost the right to vote because of imprisonment in the penitentiary (section 12.1-33-01) or conviction of a criminal offense which by special provision of law disqualified the prospective juror for such service.

**27-09.1-09. Summoning of jury panels.**

1. If a grand, petit, or other jury is ordered to be drawn, the clerk thereafter shall cause each person drawn for jury service to be served with a summons either personally or by first-class mail, addressed to the person at that person's usual residence, business, or post-office address, requiring the person to report for jury service at a specified time and place.
2. If there is an unanticipated shortage of available petit jurors, the court may require the sheriff to summon a sufficient number of petit jurors selected at random by the clerk in a manner prescribed by the court.
3. A written procedure by which persons' names are drawn for jury service must be available for public review. The names of qualified jurors and the contents of jury qualification forms completed by those jurors shall be made available to the public unless the court determines in any instance that this information in the interest of justice should be kept confidential or its use limited in whole or in part.

**27-09.1-10. No exemptions.** No qualified prospective juror is exempt from jury service.

**27-09.1-11. Excuses from jury service.**

1. The court, upon request of a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror should be excused from jury service. The clerk shall enter this determination in the space provided on the juror qualification form.
2. A person who is not disqualified for jury service may be excused from jury service by the court upon a showing of undue hardship, extreme inconvenience, or public necessity, for a period the court deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the court's direction.

**27-09.1-12. Challenging compliance with selection procedures.**

1. Within seven days after the moving party discovered or by the exercise of diligence could have discovered the grounds therefor, and in any event before the petit jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case to quash the indictment or information, or for other appropriate relief, on the

ground of a substantial failure to comply with this chapter in selecting the grand or petit jury.

2. Upon motion filed under subsection 1 containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this chapter, the moving party is entitled to present in support of the motion the testimony of the clerk, any relevant records and papers not public or otherwise available used by the clerk, and any other relevant evidence. If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court shall stay the proceedings pending the selection of the jury in conformity with this chapter, quash an indictment or information, or grant other appropriate relief.
3. The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the state, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.
4. The contents of any records or papers used by the clerk in connection with the selection process and not made public under this chapter shall not be disclosed, except in connection with the preparation or presentation of a motion under subsection 1, until after all persons selected to serve as jurors have been discharged. The parties in a case may inspect, reproduce, and copy the records or papers at all reasonable times during the preparation and pendency of a motion under subsection 1.

**27-09.1-13. Preservation of records.** All records and papers compiled and maintained by the clerk in connection with selection and service of jurors shall be preserved by the clerk as ordered by the state court administrator.

**27-09.1-14. Mileage and compensation of jurors.** A juror must be paid mileage at the rate provided for state employees in section 54-06-09. A juror must be compensated at the rate of twenty-five dollars for the first day and fifty dollars for each subsequent day of required attendance at sessions of the district court and ten dollars for each day of required attendance at sessions of a coroner's inquest. The mileage and compensation of jurors must be paid by the state for jurors at sessions of the district court. Jurors at coroner's inquests must be paid by the county.

**27-09.1-15. Length of service by jurors.** In any two-year period a person may not be required:

1. To serve or attend court for prospective service as a petit juror more than ten court days, except if necessary to complete service in a particular case;
2. To serve on more than one grand jury; or
3. To serve as both a grand and petit juror.

**27-09.1-16. Penalties for failure to perform jury service.** Repealed by S.L. 1993, ch. 89, § 32.

**27-09.1-17. Protection of jurors' and witnesses' employment.**

1. An employer may not deprive an employee of employment, lay off, penalize, threaten, or otherwise coerce an employee with respect thereto, because the employee receives a summons or subpoena, responds thereto, serves as a juror or witness, or attends court for jury service or to give testimony pursuant to a subpoena.
2. Any employer who violates subsection 1 is guilty of a class B misdemeanor.

3. If an employer discharges an employee in violation of subsection 1, the employee within ninety days may bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable may not exceed lost wages for six weeks. If the employee prevails, the employee must be allowed a reasonable attorney's fee fixed by the court.

**27-09.1-18. Court rules.** The supreme court of this state may make and amend rules, not inconsistent with this chapter, regulating the selection and service of jurors.

**27-09.1-19. Savings clause.** Repealed by S.L. 1983, ch. 82, § 154.

**27-09.1-20. Short title.** This chapter may be cited as the Uniform Jury Selection and Service Act.

**27-09.1-21. District courts and county courts may use each other's jury panels.** Repealed by S.L. 1991, ch. 326, § 203.

**27-09.1-22. When jury panel to attend subsequent term.** A judge of the district court may, by order, require an undischarged jury panel summoned to attend a term of the court to attend any subsequent general, special, or adjourned term of the court not exceeding in all one calendar year.